

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

AUG 14 2019

Clerk, U.S. District Court
District Of Montana
Great Falls

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHANNING EDER,

Defendant.

CR 08-123-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Channing Eder (Eder) has been accused of violating the conditions of his supervised release. Eder admitted all of the alleged violations, except three. Eder's supervised release should be revoked. Eder should be placed in custody for 4 months, with 36 months of supervised release to follow. Eder should serve the first 60 days of supervised release at an inpatient substance abuse treatment facility.

II. Status

Eder pleaded guilty to Use of a Firearm During a Crime of Violence on September 30, 2008. (Doc. 12). The Court sentenced Eder to 84 months of custody, followed by 5 years of supervised release. (Doc. 15). Eder's current term

of supervised release began on December 6, 2018. (Doc. 62 at 2).

Petition

The United States Probation Office filed a Petition on May 21, 2019, requesting that the Court revoke Eder's supervised release. (Doc. 62). The Petition alleges that Eder violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to report for substance abuse treatment; 3) by using methamphetamine on two separate occasions; 4) by committing another crime; 5) by consuming alcohol; and 6) by knowingly communicating with a convicted felon. United States District Judge Brian Morris issued a warrant for Eder's arrest on May 21, 2019. (Doc. 44).

Initial appearance

Eder appeared before the undersigned for his initial appearance on June 26, 2019. Eder was represented by counsel. Eder stated that he had read the petition and that he understood the allegations. Eder waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a joint revocation hearing in this case and in Cause CR 08-54-GF-BMM on August 13, 2019. Eder admitted that he had violated the

conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to report for substance abuse treatment; 3) by using methamphetamine on two separate occasions. The government did not attempt to prove alleged violations 5, 6 and 7. The violations that Eder admitted are serious and warrant revocation of Eder's supervised release.

Eder's violations are Grade C violations. Eder's criminal history category is I. Eder's underlying offense in this case is a Class A felony. Eder's underlying offense in Cause CR 08-54-GF-BMM is a Class C felony. Eder could be incarcerated for up to 60 months. Eder could be ordered to remain on supervised release for up to 44 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Eder's supervised release should be revoked. Eder should be incarcerated for 4 months, with 36 months of supervised release to follow. Eder should serve the first 60 days of supervised release at an inpatient substance abuse treatment facility. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Eder that the above sentence would be recommended to Judge Morris. The Court also informed Eder of his right to object to these

Findings and Recommendations within 14 days of their issuance. The Court explained to Eder that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Eder stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court FINDS:

That Channing Eder violated the conditions of his supervised release by failing to report for substance abuse testing, by failing to report for substance abuse treatment, and by using methamphetamine.

The Court RECOMMENDS:

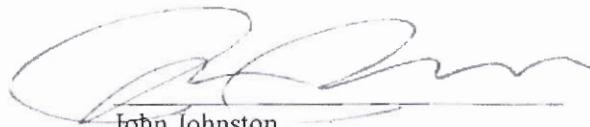
That the District Court revoke Eder's supervised release and commit Eder to the custody of the United States Bureau of Prisons for 4 months, with 36 months of supervised release to follow. Eder should serve the first 60 days of supervised release at an inpatient substance abuse treatment facility. The sentence imposed in this case should run concurrent with the sentence imposed in Cause CR 08-54-GF-BMM.

NOTICE OF RIGHT TO OBJECT TO FINDINGS AND RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district judge will make a de novo determination regarding any portion of the Findings and

Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

DATED this 14th day of August, 2019.



John Johnston
United States Magistrate Judge